

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

Case No. 03-CR-289

**CARLTON LEROY,
Defendant.**

ORDER

Defendant Carlton Leroy, who is serving a 70 month prison sentence at FCI – Beckley on drug charges, seeks an order that as of February 20, 2007, he serve the remainder of his sentence in a community correctional center (“CCC”). He alleges flaws in the BOP’s classification system relating to such transfers.

The BOP is directed under 18 U.S.C. § 3624(c) to “assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 per centum of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for the prisoner’s re-entry into the community.” This may include transfer to a CCC.

The BOP makes the initial decision on such a transfer, not the sentencing court. See United States v. Ferreria, 239 F. Supp. 2d 849, 855 (E.D. Wis. 2002) (citing Prows v. Federal Bureau of Prisons, 981 F.2d 466, 469 (10th Cir. 1992)). An inmate may challenge an adverse decision concerning the execution of his sentence under 28 U.S.C. § 2241, see Eaton v. United States, 178 F.3d 902, 903-04 (7th Cir. 1999); cf. Richmond v. Scibana, 387 F.3d 602, 605-06 (7th Cir. 2004) (distinguishing between a challenge to a

decision on 3624(c) release and a challenge to the rules employed by the BOP), but actions under § 2241 are properly brought against the inmate's custodian in the district of confinement, following exhaustion of administrative remedies, not in the district where the case was tried, see, e.g., Garza v. Lappin, 253 F.3d 918, 921 (7th Cir. 2001); United States v. Mittelsteadt, 790 F.2d 39, 41 (7th Cir. 1986). Because defendant is in the wrong court, I must dismiss his motion for lack of jurisdiction.

THEREFORE, IT IS ORDERED that defendant's motion (R. 93) is **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 13th day of October, 2006.

/s Lynn Adelman

LYNN ADELMAN
District Judge